RESPONSE AND REMARKS

Claim Rejections Under 35 U.S.C. §103(a)

The Office Action rejected Claims 1, 3, 4 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Nicholls et al. (U.S. Patent No. 5,631,827; "*Nicholls*") in view of in view of Boucher et al. (U.S. Patent No. 6,976,007 "*Boucher*"). *Office Action*, Topic No. 4, p. 3.

Claim 2 was rejected in the Office Action as being unpatentable over *Nicholls* and *Boucher* as stated for Claim 1, and further in view of Kara et al. (U.S. Patent No. 6,233,568; "*Kara*"), and InterShipper (Newsbytes Article, "Internet Update"; "*InterShipper*"). *Office Action*, Topic No. 9, p. 4.

The Office Action rejected Claims 7, 9, and 31 under 35 U.S.C. § 103(a) as being unpatentable over *Nicholls* in view of *Kara*, UPS® Service Guide (www.ups.com; "*UPS*"), FedEx® Services (www.fedex.com; "*FedEx*"), *Intershipper*, and Barnett (U.S. Patent No. 6,369,840; "*Barnet.*"). *Office Action*, Topic No. 12, p. 5.

The Office Action rejected Claim 10 under 35 U.S.C. § 103(a) as being unpatentable over *Nicholls*, *Kara*, and *Intershipper* as applied to Claim 9, and further in view of *Boucher*. *Office Action*, Topic No. 18, p. 7.

Response Remarks Regarding the Claim Rejections under Section 103(a)

The rejections under Section 103(a) have been carefully considered. Claims 1, 6, 10 and 31 of.the present application have been amended to more distinctly recite the claimed invention.

A Declaration by William W. Smith III Under 37 CFR §132 ("*Smith Decl'n*") is filed concurrently herewith in support of this Amendment and Response.

It is respectfully asserted, for the reasons given and the authorities cited below, that none of the references of record, even when considered in combination, disclose, anticipate, teach or suggest all of the limitations of the Claims of the present application, as amended.

Claims 1, 2, 3, 4, 6, 7, 9, 10 and 31

For the reasons given and authorities cited below, it is respectfully asserted that none of the cited references, whether considered alone or in combination, disclose, anticipate, teach or suggest the functional alignment of server computers as claimed in one way or another by independent Claims 1, 6, 7, 9 and 31, and by dependent Claim 10. Further, it is respectfully asserted, for the reasons given and authorities cited below, that the limitations of independent Claims 1 and 6, and dependent Claim 10, are further distinguished from the references of record.

In rejecting independent Claims 1 and 6, the Office Action stated that "Nicholls discloses the use of multiple servers performing specific functions and discloses tracking as an option (See Figure 2) but fails to disclose the use of a server used for tracking." *Office Action*, Topic No. 6, p. 3. In order to compensate for the failure of *Nicholls* stated by the Office Action of using a server for tracking, the Office Action stated that "Boucher discloses the use of a multi-carrier package tracking system, with a tracking server (22), which upon receipt of a user tracking request (191) through Instatrac (89), communicates with the appropriate carrier servers to store tracking information and display to the user (See Column 4, lines 48-65 and Column 8, lines 10-22)." *Office Action*, Topic No. 6, p. 3. The Office Action then asserts that "[i]t would have been obvious ... to modify Nichols with the tracking server in the multi-carrier tracking system of Boucher, in order to provide a tracking service to a user...." *Office Action*, Topic No. 6, p. 3 (citing *Boucher*, abstract and column 3).

The Office Action defends its assertion of *Nicholls*, stating that "Nicholls discloses the use of server, and separate servers are used for each task, such as separate tracking server." *Office Action*, Topic No. 20, p. 8.

It is respectfully asserted that the Office Action's reliance on *Nicholls* as grounds for the above-mentioned assertion is misplaced and does not fully consider all of the limitations of the rejected Claims. The Office Action defends the failure to fully consider all of the limitations of the rejected Claims due to what the Office Action characterizes as "wordiness." *Office Action*, Topic No. 21, p. 9.

It is respectfully asserted that contrary to the Office Action's assertion of "wordiness" of the Claims, the Claims state functional limitations that the Office Action has reworded out of its grounds for rejection. Further to the requirement by the Office Action to point out the specific limitations which have not been considered, the following reasons are given why specific limitations have not been considered and are not disclosed, anticipated, taught or suggested by the cited references.

THE CITED REFERENCES DO NOT DISCLOSE FUNCTIONAL ALIGNMENT OF SERVER COMPUTER DEVICES

It is respectfully asserted that, in one way or another, independent Claims 1, 6, 7, 9 and 31 claim functionally aligned server computer devices. For example, Claims 1, 6 and 9 expressly recite "a plurality of functionally aligned server computer devices ...." Claim 31 recites "... at least a first server computer device that is dedicated for concurrent remote access by a plurality of respective client computer devices via a communications network ... and at least a second server computer device that is dedicated to a delivery scheduling and rating function ...."

In rejecting the Claims, the Office Action points to the mention in *Nicholls* of "servers" to support the conclusion that the claimed functional alignment of server computer devices has been "done at the time the invention was made ...." *Office Action*, Topic No. 20, p. 8. However, for the reasons given below, it is respectfully asserted that the Office Action's assertion of *Nicholls* as supporting the disclosure of the claimed limitations is misplaced and unsupported.

It is respectfully asserted that the Office Action fails to consider in its rejections, the recited limitations of functionally aligned server *computer devices*. In particular, it is respectfully asserted that the assertion by the Office Action of *Nicholls* as supporting functional alignment of server computer devices does not reflect the disclosure of *Nicholls*. *Nicholls* mentions "servers," but in doing so, it is respectfully asserted that *Nicholls* is referring to various program objects, not computer devices. *See, e.g., Nicholls*, col. 5, lines 25-29 ("The Presently

Preferred Program Objects ... The presently preferred program objects are described in Table I below. Broadly speaking, these objects can be classified as being client objects or server objects."); _Nicholls_, col. 5, Table I (listing as a Program Object, Supervisory Server, Document Server, FedEx Rate Server, etc.). It is respectfully asserted that FIGS. 2 and 6 of _Nicholls_ are in accord and merely depict the aforementioned program objects. _See, e.g., Nicholls_, col. 3, lines 9-11 (FIG. 2 is an icon view of the plurality of program objects which comprise a presently preferred embodiment of the logistics management system ...").

For reasons explained further below, it is respectfully asserted that the difference between the recited limitations of the Claims of the present application for functionally aligned computer devices is patentably distinct from the disclosure in _Nicholls_ of program "server" objects.

It is respectfully asserted that it would be improper to ignore recited limitations, such as the limitation of functionally aligned server computer devices, rewording the limitations to comply with the wording of a cited reference. _See, e.g., Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility_, (United States Patent and Trademark Office; _Official Gazette_ Notices for November 22, 2005), § II.C ("... when evaluating the scope of a claim, every limitation in the claim must be considered. USPTO personnel may not dissect a claimed invention into discrete elements and then evaluate the elements in isolation. Instead, the claim as a whole must be considered." _citing Diamond v. Diehr_, 450 U.S. 175, 188-89, 209 USPQ 1, 9 (1981) ("It is inappropriate to dissect the claims into old and new elements and then to ignore the presence of the old elements in the analysis. This is particularly true in a process claim because a new combination of steps in a process may be patentable even though all the constituents of the combination were well known and in common use before the combination was made.")).

In particular, it is respectfully asserted that the Office Action apparently takes the position that the "server" wording of the _Nicholls_ reference is the same as the claimed limitations for "functionally aligned server computer devices."

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For the reasons described further below, it is respectfully asserted that a rewording of the claim language from the recited limitations of "functionally aligned server computer devices" to the "server" wording of the *Nicholls* reference improperly eliminates distinguishing functions of the recited limitations.

It is respectfully asserted that during the late 1990's, prior to the present invention, in a web-based, Internet-enabled computer application that would be accessed via browser software executing on client computers, it was customary for the Internet application website to provide one or more server computers. *See Smith Decl'n*, ¶13. However, during that period, even if multiple server computers were provided, it was common that each server computer would be loaded with full application functionality. *See Smith Decl'n*, ¶13. That is, it was common that all program objects for a subject application would be operable on each server computer. *See Smith Decl'n*, ¶13. This approach of other systems was described in the Specification of the present application as follows:

> Some standalone carrier systems dedicate a single computer device to the performance of all shipping functionalities. Such a configuration does not provide time effective support for a high volume of shipping input and requests by a high volume of users over a global communications network. Accordingly, some way is needed to provide time effective support for a high volume of shipping input and requests by a high volume of users over a global communications network.

Specification, p. 2, lines 19-24.

Thus, during the late 1990's, prior to the present invention, it is respectfully asserted that it was common for each server computer to be loaded with a plurality of program objects to perform a number of different functions. *See, e.g., Smith Decl'n*, ¶14.

It is respectfully asserted that the result of loading each server computer with a plurality of differently functioning program objects, was that a server computer could sometimes become over-loaded or over-trafficked with transactions for particular functions, and as a result, would not be available to perform other functions. *See Smith Decl'n*, ¶15. In such an Internet application, the result of a server computer being overloaded with transactions of a particular

function was that the Internet application would exhibit a slow response time for users. *See Smith Decl'n*, ¶15.

It is respectfully asserted that, in order to give users faster response time, a common reaction by administrators of web-based, Internet-enabled applications systems to a server computer being overloaded with transactions of a particular function, was to add one or more additional server computers. *See Smith Decl'n*, ¶16. However, during the late 1990's, prior to the present invention, when one or more server computers were added in such a situation, each server computer would often be loaded with complete parallel functionality to the earlier-installed server computer. *See Smith Decl'n*, ¶16.

It is respectfully asserted that the result of the aforementioned approach of parallel-full-functionality server computers was that each server computer might be eventually become extremely busy with a particular type of transaction, and might under serve and/or provide slow response time for other transaction types. *See Smith Decl'n*, ¶17.

As an alternative to full-functionality of multiple server computers operating in parallel, it is respectfully asserted that various exemplary embodiments of, for example, Claim 1, would provide a web-based, Internet-enabled shipping management computer system in which the server computers are functionally aligned such that a first server is dedicated to a first particular shipping management computer system function; a second server is dedicated to a second particular shipping management computer system function; a third server is dedicated to a third particular shipping management computer system function; etc. *See also, e.g., Smith Decl'n*, ¶22.

For example, as compared to full-functionality of multiple server computers operating in parallel, it is respectfully asserted that various exemplary embodiments of, for example, Claim 1, would provide a web-based, Internet-enabled shipping management computer system with a first server computer dedicated to a first particular shipping management computer system function, such as, for example, interacting with remote access by the various users/client

computers that were accessing the exemplary web-based, Internet-enabled shipping management computer system. *See also, e.g., Smith Decl'n*, ¶23.

It is respectfully asserted that, in such an exemplary web-based, Internet-enabled shipping management computer system, a second server computer would be dedicated to a second particular shipping management computer system function, such as, for example, rating; and a third server computer would be dedicated to a third particular shipping management computer system function, such as, for example, tracking. *See also, e.g., Smith Decl'n*, ¶24.

Further, it is respectfully submitted that *Boucher* does not contribute support to the rejection as obvious of the limitations of Claims 1, 6 and 10 for functionally aligned server computer devices. In particular, *Boucher* discloses that "... the tracking objects are created and their creation and transfer controlled by a tracking coordinator forming part of the shipping system's server." *Boucher*, col. 1, lines 54-57; *see also, e.g., Boucher*, col. 3, lines 7-11 ("This shipping server operates so as to generate a tracking object which is a component object model (COM) created by the InstaTrac component 89."). As compared to the claimed third server computer device recited by, for example, Claim 1, it is respectfully asserted that the quoted portions of *Boucher* expressly state that *Boucher* uses the same server as the "shipping server" and for tracking.

In view of the above-given reasons, it is respectfully asserted that the claimed limitations of "functionally aligned server computer devices" are patentably distinct from the references of record. Accordingly, it is respectfully asserted that independent Claims 1, 6, 7, 9 and 31 as amended, and the Claims dependent on the, namely 2-4, and 10, are in condition for allowance.

THE CITED REFERENCES DO NOT DISCLOSE ESTABLISHING AN ONLINE CONNECTION WITH A CARRIER SYSTEM AND OBTAINING SHIPMENT STATUS INFORMATION THROUGH THE ONLINE CONNECTION.

It is respectfully asserted that none of the cited references disclose establishing an online connection with a carrier system and then obtaining

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shipment status information from the carrier system through the online connection, as claimed in one way or another by Claims 1, 6, and 10.

Claim 1 has been amended to more distinctly recite that one of the server computer devices is programmed to, among other things:

> establish an online connection with a respective carrier system associated with the carrier, and
> obtain from the respective carrier system through the online connection, shipment status information for the respective parcel according to the identifier ...

Claims 6 and 10 have also been amended to claim an online connection with carrier systems.

As compared to establishing an online connection with carrier systems and obtaining shipment status information from the carrier systems through the online connection, it is respectfully asserted that *Boucher* merely discloses that "... tracking objects are created and their creation and transfer controlled by a tracking coordinator forming part of the shipping system's server." *Boucher*, col. 1, lines 54-57; *see also, e.g., Boucher*, col. 3, lines 7-11 ("This shipping server operates so as to generate a tracking object which is a component object model (COM) created by the InstaTrac component 89."). *Boucher* discloses that "[t]he tracking objects ... are conveyed to the corresponding carrier tracking website 130 via the Internet 24 ... The carrier tracking website 130 then processes each tracking request from the tracking object and generates a tracking response which is conveyed as an HTML page 131 ... and is transferred via the Internet 24 to the tracking component 88." *Boucher*, col. 4, lines 10-17.

As distinguished from *Boucher*, it is respectfully submitted that amended independent Claim 1 of the present application expressly recites "...establish an online connection with a respective carrier system associated with the carrier, and obtain from the respective carrier system through the online connection, shipment status information for the respective parcel according to the identifier ... ..."; amended independent Claim 6 expressly recites "...accessing a respective carrier computer system of a plurality of carrier computer systems through a

respective online connection with the respective carrier computer system ..., and by obtaining carrier tracking information corresponding to the tracking number from the respective carrier computer system through the respective online connection with the respective carrier computer system...." Similarly, amended Claim 10, dependent on independent Claim 9, recites "... access a respective carrier system through a respective online connection and ... obtain respective carrier tracking information from the respective carrier system through the respective online connection regarding a respective shipping status corresponding to the respective identifier ...."

It is respectfully submitted that the Specification of the present application describes various non-limiting exemplary embodiments of the above-recited limitations of independent Claims 1 and 6, and dependent Claim 10. For example, the Specification discloses that:

> As depicted in FIG. 5, using the Carrier's Internet URL, the System 1 (labeled "iShip.com" in FIG. 5) then makes an HTTP (HyperText Transfer Protocol) connection over the Internet 15 to the Carrier's web server, e.g., 23-2, 24-2, 25-2, 26-2, or 27-2, using the URL information for the particular Carrier's web server.

Specification, p. 16, line 28 – p. 17, line 2. The Specification of the present application describes in some detail, for various non-limiting exemplary embodiments, an exemplary way that carrier systems would be accessed and tracking information obtained:

> ... using the Carrier's Internet URL, the System then makes an HTTP connection to the Carrier's web server, e.g., 23-2, 24-2, 25-2, 26-2, or 27-2, using the URL information for the particular Carrier's web server. Depending upon the Carrier, the System's 1 request and report interface with the Carrier's web server is programmed in HyperText Markup Language ("HTML") (e.g., 24-1, 25-1, 27-1), Extensible Markup Language ("XML") (e.g., 26-1), or both HTML and XML (e.g., 23-1). FIG. 66 depicts an exemplary XML formatted request for submitting a tracking request to a Carrier. FIG. 67 depicts an exemplary successful tracking response, also in XML format, returned by the Carrier.
>
> Then, as depicted in FIG. 69, the System transmits the Carrier's tracking number over the HTTP connection (2052 or 2054). The System instructs the Carrier's web server as to what information is requested based on the connection made using the URL.

If the Carrier's web server successfully responds 2055 to the System's 1 tracking request, the System disconnects from the Carrier's web server and parses the response data. Some Carriers' response data contains unnecessary text information. The System strips out all of the unnecessary text in order to parse the relevant information.

Specification, p. 85, line 23 – p. 86, line 11.

It is respectfully asserted that the above-recited limitation of establishing an online connection with carrier systems and obtaining shipment status information from the carrier systems through the online connection is completely absent from *Boucher*. Moreover, for the following reasons, it is respectfully asserted that the distinction is patentable.

It is respectfully asserted that, during the late 1990's, prior to the present invention, one aspect of providing a web-based, Internet-enabled, multi-carrier shipping management computer system was a need to be able to provide to users, shipment status (tracking) information for each user's various parcels, even when various parcels for the same user were being shipped by different carriers. *See Smith Decl'n*, ¶ 18. It is respectfully asserted that a further need was that Internet users wanted to be able to obtain real-time tracking information in response to their online inquiry and to be able to do so through a multi-carrier system without requiring the user to separately sign-on to each separate carrier system. *See Smith Decl'n*, ¶ 18.

It is respectfully asserted that, during the late 1990's, prior to the present invention, some carriers were making files available on a periodic basis that would contain tracking information. *See Smith Decl'n*, ¶ 19. During the late 1990's, prior to the present invention, one way for a multi-carrier system to provide tracking information to its users would have been for the multi-carrier system to gain access to these periodically-provided carrier tracking information files, and report tracking information for a user's parcel(s) back to the user. *See Smith Decl'n*, ¶ 19. One problem with that approach was that if a user submitted an online request to such a multi-carrier system, the tracking information that may have been available would have only been as updated as the multi-carrier

system's last access to the periodically-provided carrier tracking information files. *See Smith Decl'n*, ¶ 19.

It is respectfully asserted that, during the late 1990's, prior to the present invention, another approach for obtaining tracking information from carrier systems was to send tracking objects for delivery to a carrier's website and then receive HTML pages from the carrier's website. *See Smith Decl'n*, ¶ 20.

It is respectfully asserted that one problem with the above-described approach of sending tracking objects to a carrier's website was that some carriers imposed restrictions on the number of tracking objects that could be made from a particular IP (Internet Protocol) address. *See Smith Decl'n*, ¶ 21.

With regard to the need to obtain tracking information, with the present invention, in an exemplary web-based, Internet-enabled shipping management computer system embodying limitations of, for example, Claims 1, 6 and 10, the exemplary embodiment would determine the relevant Carrier's ID, such as from a user-entry of a tracking number. *Smith Decl'n*, ¶ 26. The exemplary embodiment would use the Carrier's ID to determine the Internet address for the Carrier's Internet website. *Smith Decl'n*, ¶ 26. Then, using the Carrier's Internet address, the exemplary embodiment made an exemplary online connection (in the exemplary embodiment, an HTTP connection) to the Carrier's web server. *Smith Decl'n*, ¶ 26. Then, through the exemplary online connection, the exemplary embodiment submitted a tracking request to the Carrier's website. *Smith Decl'n*, ¶ 26. Next, still through the exemplary online connection, the exemplary embodiment received a tracking response returned by the Carrier's website. *Smith Decl'n*, ¶ 26. The exemplary embodiment then, in turn, provided the tracking information to the requesting user. *Smith Decl'n*, ¶ 26. *See also, e.g., Specification*, p. 85, line 16 – p. 86, line 15.

It is respectfully asserted that in an exemplary embodiment of the limitations of, for example, Claims 1, 6 and 10, establishing an online connection with a carrier's website and obtaining tracking information for a parcel was not subject to the same limitations described above regarding the number of tracking

objects that could be received from a particular IP address. *See also* <u>Smith</u>
<u>Decl'n</u>, ¶ 27.

It is respectfully asserted that <u>Boucher</u> discloses precisely the above-
described approach that was common prior to our invention, of sending tracking
objects for delivery to a carrier's website and then receiving in response, HTML
pages from the carrier's website with tracking information. *See* <u>Smith Decl'n</u>, ¶
28. It is respectfully asserted that <u>Boucher</u> also describes the above-mentioned
problem with the above-described approach that was sometimes used prior to
our invention of sending tracking objects to a carrier's website. *See* <u>Smith</u>
<u>Decl'n</u>, ¶ 29. In particular, <u>Boucher</u> describes that some carriers imposed
restrictions on the number of tracking objects that could be made from a
particular IP (Internet Protocol) address. <u>Boucher</u>, col. 7, lines 14-18; *see also*
<u>Smith Decl'n</u>, ¶ 29. <u>Boucher</u> also describes a way "…to partially overcome the
constraints of the specified carrier, [by initiating] tracking objects from a plurality
of server sites …." <u>Boucher</u>, col. 7, lines 22-24; *see also* <u>Smith Decl'n</u>, ¶ 29.

It is respectfully asserted that the above-described approach of various
exemplary embodiments of the limitations of, for example, Claims 1, 6 and 10, to
establish an online connection with a Carrier's web server is different from the
approach disclosed in <u>Boucher</u> of ending tracking objects for delivery to a
carrier's website for at least two reasons. *See also* <u>Smith Decl'n</u>, ¶ 30. One
distinction between various exemplary embodiments of the limitations of, for
example, Claims 1, 6 and 10, and the approach disclosed in <u>Boucher</u>, is that
such an exemplary embodiment would establish an online connection with a
carrier's website; whereas it is respectfully asserted that doing so is not disclosed
in <u>Boucher</u>. *See also* <u>Smith Decl'n</u>, ¶ 30. Another distinction is that various
exemplary embodiments of the limitations of, for example, Claims 1, 6 and 10,
establishing an online connection with a carrier's website was not subject to the
same limitations described above, and as described in <u>Boucher</u>, regarding the
number of tracking objects that could be received by a carrier website from a
particular IP address. *See also* <u>Smith Decl'n</u>, ¶ 30.

Accordingly, in view of the direction by the *Interim Guidelines* to consider every limitation of a claim and to consider a claim as a whole, it is respectfully asserted that, when all of the limitations of amended Claims 1 and 6, and dependent Claim 10, are considered together, there is no teaching or suggestion found in any of the references of record of the combination of limitations as recited in amended independent Claims 1 and 6, and dependent Claim 10, of the present application to respond to a user's request to track a parcel by establishing an online connection with the relevant carrier system and obtaining from that relevant carrier system, tracking information for the parcel.

Accordingly, it is respectfully asserted that amended independent Claims 1 and 6, and therefore the Claims that are dependent on them (namely, Claims 2-4), and dependent Claim 10, are further distinguished from the references of record and are in condition for allowance.

Claims 7, 9, and 31

In rejecting independent Claims 7, 9 and 31, the Office Action stated that "... Nicholls fails to disclose that for each carrier determining whether the carrier would support the shipping of a particular parcel according to rules, and generating a simultaneous display of rates for multiple carriers for a delivery service. Kara discloses simultaneously displaying rates for multiple carriers for a selected delivery service (see Figure 8) and discloses the rates are disclosed for those carriers meeting the desired parameters (Column 22, lines 13-48)." *Office Action*, Topic No. 14, p. 5. The Office Action then states that "Kara and Nicholls disclose generating an online display of at least one service of a plurality of carriers, however, fails to disclose the simultaneous display of the rates for each carrier for each service." *Office Action*, Topic No. 16, p. 6. The Office Action then asserts that "Intershipper is an internet, online website, where internet users can enter origin, destination, package weight and dimensions and will be displayed every method possible that you can use to ship your package for all major shippers (See Internet Update Article Page 1, Paragraphs 1-3)." *Office Action*, Topic No. 16, p. 6. The Office Action then further asserts that "[i]t would

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have been obvious to one having ordinary skill in the art at the time the invention was made to modify Nicholls and Kara to display every method possible to ship a package, as disclosed by InterShipper, in order to find the cheapest shipping rate (See Page 1). *Office Action*, Topic No. 16, p. 6.

The Office Action also states that "... Kara does not specifically disclose the rates being calculated with respect to time." *Office Action*, Topic No. 15, p. 6. In order to compensate for the stated failure of *Kara* to disclose rates being calculated with respect to time, the Office Action further asserts that "[b]oth UPS® and FedEx® disclose specific services where they are guaranteed delivery by a certain time in the day." *Office Action*, Topic No. 15, p. 6. The Office Action then further asserts that "[i]t would have been obvious ... to include the time sensitive 'urgency' services, as disclosed by UPS® and FedEx®, in order to ship thing and compete with a time advantage using guaranteed delivery times and to reduce costs, when delivery time is not of importance. (See Fed Ex Page 1)." *Office Action*, Topic No. 15, p. 6.

The Office Action then states that "Kara, UPS® and FedEx® fail to disclose the use of a graph which simultaneously displays a graph of shipping fees and services ..." *Office Action*, Topic No. 15, p. 6. The Office Action also states that "... Intershipper ... fails to disclose the display including the date and time that is determined for each service calculated." *Office Action*, Topic No. 17, p. 7.

In order to compensate for the above-stated failures by *Kara*, *InterShipper*, *UPS* and *FedEx*, the Office Action asserts that "Barnet discloses the use of a calendar which can be used for online purchasing of services (column 2, lines 63-67), where there is a graphical representation of date on one axis and time on another (See Figure 9). It would have been obvious ... to display the calculation of shipping rates, calculated by Kara, UPS® and FedEx® and Intershipper, in the format of displaying respective date and time, as disclosed by Barnett, in order to provide a multi-layers system wherein different categories can be overlaid on one another providing a single integrated display that allows a user to order or purchase a system based on the calendar day and time (See Barnett, column

2)." _Office Action_, Topic No. 17, p. 7. The Office Action still further asserts that "[t]he examiner considers that when the rates are displayed in a matrix, then each of the rates are displayed adjacent to the axis, and therefore displayed adjacent to the time and date of the service." _Office Action_, Topic No. 17, p. 7.

The rejection of Claims 7, 9, and 31 has been carefully considered. Claims 10 and 31 have been amended to more distinctly claim the claimed invention.

IT WOULD BE IMPROPER TO READ INTO INTERSHIPPER A PRESUMPTION GLEANED FROM THE PRESENT APPLICATION, AND INTERSHIPPER DOES NOT DISCLOSE A SIMULTANEOUS DISPLAY OF RATES

For the following reasons and authorities, it is respectfully asserted that the combination of limitations claimed by Claims 7, 9, and 31, and therefore Claim 10 which is dependent on Claim 9, are nonobvious in view of the combination of _Nicholls_, _Kara_ , _UPS_, _FedEx_, _Intershipper_ and _Barnett_.

Claim 7 claims:

> at least a third server computer device of the plurality of functionally aligned server computer devices that is programmed to use the respective data to calculate a first respective shipping rate for, and determine a first date and time by, which a first carrier would deliver the respective parcel via a first delivery service, to calculate a second respective shipping rate for, and determine a second date and time by, which a second carrier would deliver the respective parcel via a second delivery service, and to calculate a third respective shipping rate for, and determine a third date and time by, which the first carrier would deliver the respective parcel via a third delivery service; and
>
> at least one server computer device of the plurality of functionally aligned server computer devices that is programmed to simultaneously display the first respective shipping rate, the first date and time, the second respective shipping rate, the second date and time, the third respective shipping rate, and the third date and time, to a display device in communication with a respective client computer device used by the respective user to input the respective request.

It is respectfully asserted that Claims 9 and 31 similarly claim a server computer device of a plurality of functionally aligned server computer devices

that is programmed to simultaneously display rates, dates and times for delivery of a particular parcel by various delivery services by various carriers.

It is respectfully asserted that the *InterShipper* reference does not disclose the above-recited combination of limitations, even when that reference is considered in combination with the other cited references. In particular, it is respectfully asserted that *InterShipper* does not disclose a simultaneous display of rates or delivery dates and times as claimed in one way or another by Claims 7, 9 and 31 for multiple delivery services offered by multiple carriers.

It is respectfully acknowledged that the *InterShipper* reference makes the following statements:

> Internet users can now get shipping rates from all major shippers in just a few seconds. Simply enter your origin, anywhere in the U.S. is OK, and destination, worldwide, along with your package weight and dimensions. The free service will return every method possible that you can use to ship your package and arrange the results in cost order, and color code the results by approximate transit time. World Wide Web: http//www.wwmerchant.com/iship.

InterShipper, p. 1, ¶2.

The Office Action is apparently asserting that the above-quoted statements should be inferred to indicate that the *InterShipper* reference simultaneously displayed its results, and that the *InterShipper* reference included multiple delivery services offered by multiple carriers in its results.

It is respectfully asserted that both such inferences are equally misplaced and unsupported.

Importantly, the cited *InterShipper* reference is a publication, not a U.S. patent. As such, there is no presumption of enablement as to the disclosure of the cited *InterShipper* reference. Moreover, as to the Claims of the present application, it is respectfully asserted that the cited *InterShipper* reference is not enabling.

Although the cited *InterShipper* reference may qualify as a prior art reference under Section 103, it may only be used as a prior art reference "... for what is in fact disclosed in it." *Reading and Bates Construction Co. v. Baker*

<u>Energy Resources Corp.</u>, 748 F.2d 645, 652 (Fed. Cir. 1984) (finding a non-enabling promotional brochure cannot be used as a vehicle for qualifying a later filed patent as prior art).

In particular, it is respectfully asserted that, contrary to the inferences apparently asserted by the Office Action, the *InterShipper* reference never states that the *InterShipper* service would display its results simultaneously. Rather, the *InterShipper* reference states only that "[t]he free service will return every method possible that you can use to ship your package ...." It does not say that such returned "every method possible" will be simultaneously displayed.

It is therefore respectfully asserted that the inference apparently asserted by the Office Action that the *InterShipper* reference discloses a simultaneous display where, in fact, none is disclosed, is evidence that the rejection improperly imports a perspective gleaned from the present application to impermissibly read a non-existing feature into the *InterShipper* reference and the combination of that reference with the other cited references. *Cf. In re Mahurkar Patent Litigation*, 831 F. Supp. 1354, 1374-75, 28 U.S.P.Q.2d (BNA) 1801, 1817 (N.D. Ill. 1993), *aff'd*, 71 F.3d 1573, 37 U.S.P.Q.2d 1138 (Fed. Cir. 1995).

Moreover, it is respectfully asserted therefore, that the invention claimed as a whole by, for example, Claims 7, 9 and 31 of the present application, is non-obvious in view of the references of record.

Yet further, contrary to the inference apparently asserted by the Office Action that the *InterShipper* reference included multiple delivery services offered by multiple carriers in its results, it is respectfully asserted that the *InterShipper* reference never states that the *InterShipper* service would include multiple delivery services offered by the "major shippers." To the contrary, the *InterShipper* reference specifically states that "Internet users can now get shipping rates from all major shippers ...", not by multiple delivery services offered by multiple major shippers.

Accordingly, it is respectfully asserted that the combinations of the limitations recited by Claims 7, 9 and 31 are therefore not disclosed, anticipated, taught or suggested by *InterShipper*.

Moreover, because the Office Action relied on *InterShipper* to provide the conceded missing link of a simultaneous display absent from the *Kara* reference, it is therefore respectfully asserted that the combinations of limitations recited by Claims 7, 9 and 31 are therefore not disclosed, anticipated, taught or suggested by, and are non-obvious in view of, the combination of the *Kara* and *InterShipper* references.

For the above-given reasons and above-cited authorities, it is respectfully asserted that the complete absence of the combinations of limitations recited by Claims 7, 9 and 31 from the combination of references asserted by the Office Action, is strong evidence that the combinations of limitations recited by Claims 7, 9 and 31 are therefore *not* obvious.

BARNETT DOES NOT DISCLOSE A DISPLAY OF RATES

The *Office Action* cited col. 2 (lines 63-67) of *Barnett* to support the rejection of claims that claim the limitations of a simultaneous display of rates, and delivery dates and times. *See Office Action*, Topic 17, p. 7. However, it is respectfully submitted that *Barnett* does not disclose any simultaneous display of rates (*see e.g.*, *Barnett*, FIG. 9). In fact, it is respectfully submitted that *Barnett* does not disclose any display of rates by the *Barnett* system.

The subject matter of *Barnett* is calendaring, not rates. More specifically, *Barnett* discloses a "... computer-implemented method and system for generating and displaying a calendar containing user-selected events from user-selected categories." *Barnett*, Abstract. Figure 9 of *Barnett* displays a user-customized week-view calendar of events. According to the disclosure of *Barnett*, the week-view calendar of events reflects a user's selection of categories of events. *See Barnett*, FIG. 9; *Barnett*, col. 12, lines 16-22. Figure 8 of *Barnett* shows a month-view of a user-customized calendar. *See Barnett*, FIG. 8; *Barnett*, col. 11, lines 36-38. Figure 10 of *Barnett* shows a day view. *See Barnett*, FIG. 10; *Barnett*, col. 12, lines 42-43. None of the various calendars depicted in *Barnett* depict any display of rates. Moreover, there is simply no disclosure in any of the Figures of *Barnett*, or in the disclosure of *Barnett*, that

prices for the various calendared events are displayed in any of the _Barnett_ calendars or schedules.

It is true that _Barnett_ discloses that "[o]nline purchasing and related actions can be associated with each event" (_Barnett_, Abstract). However, _Barnett_ explains that the referred-to purchases would be done using links. _See, e.g., Barnett_, col. 2, lines 65-67 ("In addition, purchases of products, services, or tickets can be effected using links associated with displayed events."); _see also, e.g., Barnett_, col. 14, lines 13-17 ("In another embodiment, a link may be provided for making a purchase associated with a particular event. For example, if the event is a concert, a link to an on-line ticketing service maybe provided, for purchasing tickets to the concert."). It is respectfully submitted that the absence from the disclosure of _Barnett_ of a display of price for a calendared event, and the disclosure of _Barnett_ that a link to a separate service may be provided for making a purchase associated with a calendared event are evidence that _Barnett_ did not contemplate that the system of _Barnett_ would itself associate a price with an event calendared by the _Barnett_ system.

For the above-given reasons, it is respectfully asserted that because _Barnett_ does not disclose any display of rates by the _Barnett_ system, much less the simultaneous display of rates, there is therefore no teaching or suggestion, as required under MPEP §706.02(j) and MPEP §2143 to combine _Barnett_ with the other cited references.

Further, even assuming for the sake of argument that it could be argued that _Barnett_ somehow suggested showing rates, as compared to providing a simultaneous display of rates for the single event to deliver a particular parcel, the subject matter of _Barnett_ is a calendaring system for producing calendars that show a schedule of many different events. More specifically, _Barnett_ discloses "... provid[ing] a multi-layered calendaring system wherein _events belonging to different categories..._". _Barnett_, col. 2, lines 26 – 29 (emphasis added).

Accordingly, it is respectfully asserted that Claims 7, 9 and 31 are patentable over _Barnett_, even when it is combined with the other references of record, and are therefore in condition for allowance.

- 31 –

FEDEX AND UPS DO NOT DISCLOSE A SIMULTANEOUS DISPLAY OF RATES AND DO NOT DISCLOSE A DETERMINATION OF DATES AND TIMES FOR DELIVERY OF A PARTICULAR PARCEL

Still further, as compared to the combinations of limitations recited by Claims 7, 9 and 31, it is respectfully asserted that the _FedEx_ reference amounts to nothing more than a general description of various services offered by FedEx® and rules that FedEx® applies to shipments. Specifically, _FedEx_ lists a number of FedEx® delivery services along with a brief description of each FedEx® delivery service.

For example, _FedEx_ describes "FedEx Priority Overnight®" as providing "...delivery by 10:30 a.m. the next business day to thousands of U.S. cities in our primary service are (noon to most of the rest). Shipments may weigh up to 150 lbs., and measure up to 119" length and up to 165" in length and girth combined ... Pickup and delivery Monday-Saturday". _FedEx_, p. 1.

As a further example, _FedEx_ describes "FedEx Standard Overnight®" as providing "...delivery by 3:00 p.m. the next business day to thousands of U.S. cities in our primary service area (4:30 p.m. to most of the rest, Saturday delivery not available with this service). Shipment may weigh up to 150 lbs., and measure up to 119" in length and up to 165" in length and girth combined." _FedEx_, p. 1.

As yet another example, _FedEx_ describes "FedEx 2Day(SM)" as providing "delivery by 4:30 p.m. the second business day (7:30 p.m. to residential destinations) within the continental U.S. Shipments may weight up to 150 lbs., and measure up to 119" in length and up to 165" in length and girth combined." _FedEx_, p. 1.

It is respectfully submitted that there is no disclosure of a determination of a schedule or a calculation of shipping costs for delivery of a particular parcel in the _FedEx_ reference.

Similar to _FedEx_, _UPS_ provides a description of each of its services, but also provides a link, "Quick Cost Calculator", with each service description. According to the _UPS_ reference, the "Quick Cost Calculator" link appears to provide a user with the ability to click the link to obtain a calculation of shipping

rates, and availability and delivery times, for the particular service with which the link appears.

More specifically, *UPS* depicts multiple screen shots. Each *UPS* screen shot describes a single UPS® delivery service. On each *UPS* screen shot, that is, for each delivery service, *UPS* shows a "Quick Cost Calculator" link described for use "to determine shipping rates, availability and delivery times" for the relevant delivery service. See, e.g., *UPS*, p. 2.

For example, one screen shot describes UPS® Next Day Air Early A.M. and provides a "Quick Cost Calculator" link to determine shipping rates, availability and delivery times for UPS® Next Day Air Early A.M. *UPS*, p. 2. The screen shot describing UPS® Next Day Air Early A.M. mentions that "[y]ou get guaranteed delivery by 8:00 a.m. to major U.S. cities and by 8:30 a.m. to most other U.S. cities (9:00 a.m. or 9:30 a.m. on Saturday)." *UPS*, p. 2.

Another screen shot describes UPS® Next Day Air and provides a "Quick Cost Calculator" link to determine shipping rates, availability and delivery times for UPS® Next Day Air. *UPS*, p. 4. The screen shot describing UPS® Next Day Air mentions "[w]e guarantee delivery by 10:30 a.m., noon, or end-of-day the next business day depending on destination (noon or 1:30 p.m. on Saturdays)." *UPS*, p. 4.

Yet another screen shot describes UPS® 2nd Day Air A.M. and provides a Quick Cost Calculator" link to determine shipping rates, availability and delivery times for UPS® 2nd Day Air A.M. *UPS*, p. 6. The screen shot that describes UPS® 2nd Day Air A.M. mentions that "[w]hen you have commercial shipments that must arrive before noon the second business day, UPS 2nd Day Air A.M.™ is the right choice. Available to most metropolitan addresses throughout the 48 contiguous states." *UPS*, p. 6.

It is respectfully asserted that instead of contributing to the claimed limitations recited by Claims 7, 9 and 31, the *UPS* and *FedEx* references perfectly depict the problem described by the *Specification* of the present application that a user faced in trying to obtain comparison of shipping rates and delivery times and dates across multiple carriers and multiple delivery services

offered by those carriers. *See, e.g., Specification*, p. 2, lines 12-18 ("A Shipper that uses standalone Carrier systems must sort through the various services offered by each carrier and apply each Carrier's rules to determine whether one or more carriers offer a service with which to deliver a particular parcel according to the Shipper's requirements. If the Shipper determines that more than one carrier offers a service with which to deliver a particular parcel according to the Shipper's requirements, then the particular Shipper might additionally be concerned with selecting a carrier and service that provide shipping services at the optimal price.")

It is respectfully asserted that a user of *FedEx* would encounter the description of *FedEx* that different delivery times apply depending on the shipping particulars for shipping a particular parcel. For example, *FedEx* explains that "FedEx Priority Overnight®" is for providing "...delivery by 10:30 a.m. the next business day to thousands of U.S. cities in our primary service are (noon to most of the rest). ... Pickup and delivery Monday-Saturday". *FedEx*, p. 1.

That is, in order for a *FedEx* user to determine whether a parcel to be shipped using FedEx Priority Overnight® would result in delivery by 10:30 a.m. the next business day, or by noon the next business day (or some other time), it is respectfully asserted that the *FedEx* references indicates that the user would need to investigate whether the particular city to which the user's particular parcel was to be shipped happened to be one of the "thousands" for which delivery would be provided by 10:30 a.m., or whether the city was one of the "most of the rest" for which delivery would be provided by noon, or whether the city was neither one of the "thousands" for which delivery would be provided by 10:30 a.m., or one of the "most of the rest" for which delivery would be provided by noon, in which case, the FedEx reference provides no indication of a delivery time guarantee. Moreover, whatever the result of the user's above-outlined investigation, the time for delivery determined by the user would apply only if the user elected to use the FedEx Priority Overnight® delivery service; the user would need to plod on with further investigation to determine a comparison of a

delivery time if the user were to instead, for example, elect FedEx Standard Overnight® or FedEx 2Day(SM).

It is respectfully asserted that the above-described steps that a *FedEx* user would have to take to determine the delivery time of a parcel to be shipped for any particular FedEx® service are evidence that *FedEx* does not disclose "... wherein each respective service-specific, carrier-specific shipping rate [of a graphic cross-comparison of shipping rates] is displayed adjacent a display indicating a respective time and date before which a particular respective carrier would deliver the respective particular parcel to a respective particular delivery destination via a particular respective delivery service ..." as recited by Claims 7, 9 and 31.

Yet further, it is respectfully asserted that, according to the *FedEx* reference, a user trying to obtain a comparison of projected delivery dates would also have required the *FedEx* user to investigate the specific FedEx® rules as those rules pertained to the user's particular shipping requirements. That is, the information provided in *FedEx* is general information and is not displayed "... regarding a proposed shipment of a respective parcel ...", as recited by Claim 7, or regarding "...a respective parcel to be shipped by the respective user, a first respective location from which the respective parcel is to be shipped by the respective user, and a second respective location to which the respective parcel is to be shipped by the respective user ..." as recited by Claim 9, or "... a respective parcel to be shipped by the respective user, a first respective location from which the respective parcel is to be shipped by the respective user, and a second respective location to which the respective parcel is to be shipped by the respective user ..." as recited by Claim 31.

Regarding a date by which delivery would be expected, *FedEx* explains that Saturday delivery is not available for the "FedEx Standard Overnight®" service. *FedEx*, p. 1. That is, if a parcel is shipped on a Friday using FedEx Standard Overnight®, because delivery on Saturday is not available for that service, the parcel would not be delivered until the following Monday, or if the following Monday were a holiday, by the following Tuesday. Therefore, in order

for a delivery *date* to be determined, it is respectfully asserted that according to the *FedEx* reference, a user of *FedEx* would need to consult a calendar (mentally or visually) to determine the delivery date on which a parcel shipped via, e.g., FedEx Standard Overnight® should be delivered.   For example, if the user was shipping a package on, *e.g.,* a Friday, it is respectfully asserted that the *FedEx* user would need to identify the date of the following Monday, or if the following Monday were a holiday, the following Tuesday.

Yet further, in order for a delivery date to be determined, it is respectfully asserted that a user of *FedEx*, may, depending on the circumstances, need to consult a clock to determine the date of expected delivery of a parcel to be sent by FedEx Standard Overnight®. For example, if the user was shipping the package after a particular cut-off time, the package may not be delivered the following day -- that is, the package may be delivered two days after the shipment date.

It is respectfully asserted that the above-described steps that a *FedEx* user would have to take to determine a delivery date of a parcel to be shipped, *e.g.,* using FedEx Standard Overnight® are further evidence that *FedEx* does not disclose the limitations recited by independent Claims 7, 9 and 31.

Further still, if a user of *FedEx* wanted to obtain, across various FedEx® services, a simultaneous display of delivery dates and times for delivery of a particular parcel that the user wanted to ship, it is respectfully asserted that the *FedEx* user would need to determine a delivery date and time for each FedEx® service to be compared. It is respectfully asserted that the aforementioned steps that a *FedEx* user would have to take to determine a cross-comparison with an indication of delivery dates and times for a parcel using only a single carrier, *e.g.,* FedEx®, is yet further evidence that *FedEx* does not disclose the limitations recited by independent Claims 7, 9 and 31.

Turning to the *UPS* reference, as with *FedEx*, it is respectfully asserted that *UPS* teaches that, even for "guaranteed" services (*See, e.g., Office Action,* Topic 15, p. 6 (stating that "[b]oth UPS® and FedEx® disclose specific services where they are guaranteed delivery by a certain time in the day.), different

delivery times may apply depending on the shipping and/or delivery particulars for shipping and delivering a particular parcel. For example, for the UPS Next Day Air Early A.M.® delivery service, even though <u>UPS</u> states "Guaranteed Overnight by 8 A.M.", <u>UPS</u> clarifies that "[y]ou get guaranteed delivery by 8:00 a.m. to major U.S. cities and by 8:30 a.m. to *most* other U.S. cities (9:00 a.m. or 9:30 a.m. on Saturday)..." (emphasis added). That is, in order for delivery to be "Guaranteed Overnight by 8 A.M.", assuming the delivery was to occur Monday through Friday, the delivery address would need to be in one of the "major U.S. cities;" in order for delivery to be guaranteed by 8:30 a.m., the delivery address, if not in one of the "major U.S. cities", would need to be in one of the "*most* other · U.S. cities..." (emphasis added).

As another example of guarantee-dependency on shipping particulars, for the UPS Next Day Air® delivery service, even though <u>UPS</u> states "Guaranteed Overnight by 10:30 AM", <u>UPS</u> clarifies that delivery is guaranteed "...by 10:30 a.m., noon, or end-of-day the next business day *depending on destination* (noon or 1:30 p.m. on Saturdays)." (emphasis added). That is, according to <u>UPS</u>, delivery time would be dependent on the destination address and the day of the week shipped.

Further, it is respectfully asserted that the <u>UPS</u> reference teaches that, notwithstanding the name of a delivery service, delivery guarantees may depend on the day of the week on which shipping occurs. For example, according to the <u>UPS</u> reference, some UPS® delivery services support Saturday delivery; whereas others do not; Sunday delivery options are not indicated in <u>UPS</u> for any of the UPS® delivery services. *Compare, e.g., <u>UPS</u>*, p. 2 (describing, for UPS Next Day Air Early A.M.®, both a Saturday Delivery option and a Saturday Pickup option) and <u>UPS</u>, p. 4 (describing, for UPS Next Day Air®, both a Saturday Delivery option and a Saturday Pickup option), *with <u>UPS</u>*, p. 6 (describing, for UPS® 2nd Day Air A.M.®, a Saturday Pickup option, but with no mention of a Saturday Delivery option).

That is, assuming that the delivery address is to one of "most metropolitan addresses" to which delivery would be "Guaranteed Two-Day by 12 Noon" (*see*,

UPS, p. 6), if a package were sent on a Thursday via UPS® 2nd Day Air A.M.®, even though the delivery service name "UPS® 2nd Day Air A.M.®" may imply that the delivery would be made by the second day, a Saturday, following the Thursday shipment day, it is respectfully asserted that, according to *UPS*, Saturday delivery would not be available. Because, according to *UPS*, a Saturday delivery option is not available for the "UPS® 2nd Day Air A.M.®" delivery service, it is respectfully asserted that according to *UPS*, delivery for a package sent on a Thursday using the "UPS® 2nd Day Air A.M.®" delivery service would not be available until the next day available for deliveries for the "UPS® 2nd Day Air A.M.®" delivery service -- which, because neither Saturday nor Sunday are indicated in *UPS* as delivery days for the "UPS® 2nd Day Air A.M.®" delivery service, would therefore not occur until, *e.g.*, the following Monday, or if the following Monday were a holiday, then possibly not until the following Tuesday.

The above-described variations in delivery days and times for various UPS® delivery services as dependent on specific shipping and/or delivery parameters is evidence that the mere listing of a delivery service by name, and/or a general statement of guarantee, are not a conclusive indication of a delivery date or time for a particular parcel to be shipped to a particular address.

It is respectfully acknowledged that the *UPS* reference shows a "Quick Cost Calculator" link on each separate UPS® delivery service website page. For example, for the UPS Next Day Air Early A.M.® delivery service, *UPS* states "Use the Quick Cost Calculator to determine shipping rates, availability and delivery times for UPS Next Day Air Early A.M." *UPS*, p. 2. As another example, for the UPS Next Day Air® delivery service, *UPS* states "Use the Quick Cost Calculator to determine shipping rates, availability and delivery times for UPS Next Day Air." *UPS*, p. 4. As a further example, for the UPS 2nd Day Air A.M.® delivery service, *UPS* states "Use the Quick Cost Calculator to determine shipping rates, availability and delivery times for UPS 2nd Day Air A.M." *UPS*, p. 6. Yet further, for the UPS 2nd Day Air® delivery service, *UPS* states "Use the Quick Cost Calculator to determine shipping rates, availability and delivery times

for UPS 2nd Day Air." <u>UPS</u>, p. 8. For the UPS 3 Day Select® delivery service, <u>UPS</u> states "Use the <u>Quick Cost Calculator</u> to determine shipping rates, availability and delivery times for UPS 3 Day Select." <u>UPS</u>, p. 10. For UPS Ground, <u>UPS</u> states "Use the <u>Quick Cost Calculator</u> to determine shipping rates, availability and delivery times for UPS Ground Service." <u>UPS</u>, p. 12.

It is respectfully submitted that, even once a <u>UPS</u> user had obtained a set of rates and delivery dates and times for various delivery services offered by UPS®, doing so would not have provided the <u>UPS</u> user with rates and delivery dates and times, for various delivery services offered by any other carrier.

For the above-given reasons, it is therefore respectfully asserted that Claims 7, 9 and 31 are distinguished from, and patentable over, <u>UPS</u> and <u>FedEx</u>, even when those references are combined with the other references of record. It is therefore respectfully asserted that Claims 7, 9 and 31 are in condition for allowance.

KARA REQUIRES A PRE-SELECTION OF A DELIVERY SERVICE "URGENCY" AND DOES NOT DISCLOSE A SIMULTANEOUS DISPLAY OF RATES FOR MULTIPLE DELIVERY SERVICES FOR MULTIPLE CARRIERS

Further yet, it is respectfully asserted that adding <u>Kara</u> to the mix of references cited does not compensate for the gaps in the other cited references. <u>Kara</u> discloses a comparison of rates across multiple carriers, but requires a user's pre-selection of a delivery service "urgency" and/or class. *See, e.g.*, <u>Kara</u>, col. 22, lines 38 – 41 ("the … program automatically calculates the [shipping] fees for each shipping service provider offering service *commensurate with the desired shipping and/or delivery parameters*."; emphasis added). That is, according to <u>Kara</u>, a user of <u>Kara</u> must first indicate the desired shipping and/or delivery parameters (*e.g.*, Overnight, or Same Day, or Next Day, or 2-Day, or 3-Day) so that the <u>Kara</u> "program [will] automatically calculate[ ] the [shipping] fees for each shipping service provider offering service *commensurate with the desired shipping and/or delivery parameters*." <u>Kara</u>, col. 22, lines 38 – 41 (emphasis added).
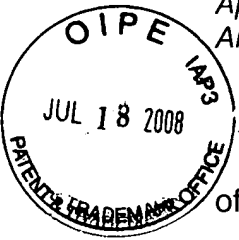
Therefore, it is respectfully submitted that *Kara* does not disclose a display of delivery dates and times, even for rates for a selected service level.

It is respectfully asserted, therefore, that combining the comparison of rates by *Kara* across multiple carriers for a selected service level, with the separate service-level determination of rates and scheduling by *UPS*, even if combined with a calendar graphic as disclosed in *Barnett*, still does not disclose, anticipate, teach or suggest each of the limitations of each of Claims 7, 9 and 31 of the present application.

Accordingly, it is respectfully asserted that Claims 7, 9 and 31, and therefore the Claims that are dependent on them (namely, Claim 10), are patentable over the references of record, and are in condition for allowance.

CONCLUSION

For the reasons given, and the references cited above, it is respectfully asserted that the invention disclosed and claimed in the present application is not fairly taught by any of the references of record, taken either alone or in combination, and that the application is in condition for allowance. Accordingly, reconsideration and allowance of the application is respectfully requested.

Respectfully submitted,
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